

REMARKS

Claims 2, 11, 12, 17, 23 and 24 have been amended to improve form and claim 9 has been canceled without prejudice or disclaimer. Claims 2-8 and 10-24 are now pending in this application.

Claims 2, 11, 17 and 23 have been rejected under the doctrine of obviousness-type double patenting as being unpatentable over claims 1, 13 and 25 of U.S. Patent No. 6,621,833. While not concurring with the rejection, but to expedite prosecution, a terminal disclaimer has been filed concurrently with this amendment. Accordingly, withdrawal of the rejection of claims 2, 11, 17 and 23 based on obviousness-type double patenting is respectfully requested.

Claims 2-6, 8-14 and 16-24 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Gummalla et al. (U.S. Patent No. 6,993,007; hereinafter Gummalla). The rejection is respectfully traversed.

Initially, the applicant notes that the present application is a continuation of U.S. Patent Application No. 09/464,786 filed on December 17, 1999 (now U.S. Patent No. 6,621,833). Therefore, the present application has an effective filing date of December 17, 1999. Gummalla was filed on February 15, 2001 and claims priority to a number of provisional applications filed in 2000 and 2001. All of these provisional applications were filed after the effective filing date of the present application. The applicant also notes that Gummalla is a continuation-in-part (CIP) of application number 09/427,792, which was filed on October 27, 1999 (now U.S. Patent No. 6,804,251). Therefore, since Gummalla is a CIP of U.S. Patent No. 6,804,251 to Limb et al. (hereinafter Limb), any disclosure in Gummalla that is also not disclosed in Limb may not be relied upon in the

present rejection. For purposes of the arguments below, the applicant will address the rejection based on Gummalla with reference to Limb (referred to hereafter as Gummalla/Limb).

Claim 2 as amended, recites generating a data packet comprising at least a portion of the plurality of bytes, the data packet including a flag indicating that the at least one unused byte has been suppressed, wherein the flag comprises one bit for each identified unused byte. Similar features were previously recited in claim 9. As to this latter feature, the Office Action states that Gummalla discloses this feature and points to Fig. 3, silence flag 304 and col. 6, lines 1-10 for support (Office Action – page 4). As discussed above, portions of Gummalla not included in Limb may not be properly relied upon in the current rejection. However, the applicant will address both Gummalla and Limb with respect to this feature.

Gummalla at col. 6, lines 1-10 discloses that an individual voice packet includes a silence flag 304 (Fig. 3) that when set, indicates that a silence period starts. This portion of Gummalla further discloses that silence flag 304 is a single bit (Gummalla – col. 6, line 2). Gummalla does not disclose or suggest that silence flag comprises one bit for each identified unused byte, as required by amended claim 1.

Limb at col. 10, lines 60-67 discloses that voice packet header 640 is composed of a silence flag 610 and a voice channel identification (VCID) flag 620. Similar to Gummalla, this portion of Limb further discloses that the silence flag 610 indicates whether a voice packet contains voice data or is silent. Limb does not disclose or suggest that silence flag 610 or any other flag comprises one bit for each identified unused byte, as required by claim 2.

For at least these reasons, Gummalla/Limb does not disclose or suggest each of the features of amended claim 2. Accordingly, withdrawal of the rejection and allowance of claim 2 are respectfully requested.

Claims 3-6, 8 and 10 are dependent on claim 2 and are believed to be allowable for at least the reasons claim 2 is allowable. In addition, these claims recite additional features not disclosed or suggested by Gummalla/Limb.

For example, claim 10 recites that the plurality of channels represent Ds0 channels and the flag includes one bit for each unused Ds0 channel. The Office Action does not particularly address this feature. Therefore, a prima facie case under 35 U.S.C. § 102 has not been established. In any event, Gummalla/Limb does not disclose or suggest this feature.

For at least these additional reasons, withdrawal of the rejection and allowance of claim 10 are respectfully requested.

Claim 11, as amended, recites that the first node is configured to generate a data packet comprising at least a portion of the plurality of bytes of data, the portion of the plurality of bytes of data comprising data associated with a plurality of channels. Claim 11, as amended, also recites that the first node is configured to attach a flag to the data packet, the flag indicating that the at least one unused byte has been omitted from the data packet and the flag identifying each unused channel in the data packet. Gummalla/Limb does not disclose or suggest these features.

For example, Limb discloses a voice packet data unit (PDU) 600 that includes a voice header 640 and a voice packet 630 (Limb – Fig. 6 and col. 10, lines 39-59). Limb further discloses that the voice packet header 640 is composed of a silence flag 610 and a

VCID flag 620. The silence flag 610 indicates whether a voice packet contains voice data or is silent. Limb does not disclose or suggest that silence flag 610 identifies each unused channel in voice packet 600. In contrast, Limb discloses that silence flag 610 merely indicates whether a voice packet contains data. The silence flag 610 clearly does not identify each unused channel in a packet, as required by amended claim 11.

For at least these reasons, Gummalla/Limb does not disclose or suggest each of the features of amended claim 11. Accordingly, withdrawal of the rejection and allowance of claim 11 are respectfully requested.

Claims 12-14 and 16 are dependent on claim 11 and are believed to be allowable for at least the reasons claim 11 is allowable. Accordingly, withdrawal of the rejection and allowance of claims 12-14 and 16 are respectfully requested.

Claims 17 and 23, as amended, recite features similar to, but of different scope than claim 11. For reasons similar to those discussed above with respect to claim 11, withdrawal of the rejection and allowance of claims 17 and 23 are respectfully requested.

Claims 18-22 and 24 depend from claims 17 and 23, respectively, and are believed to be allowable for at least the reasons their respective independent claims are allowable. In addition, these claims recite additional features not disclosed or suggested by Gummalla/Limb.

For example, claim 24 recites features similar to, but of different scope than claim 10. For reasons similar to those discussed above with respect to claim 10, withdrawal of the rejection and allowance of claim 24 are respectfully requested.

Claims 7 and 15 have been rejected under 35 U.S.C. § 103 as being unpatentable over Gummalla. The rejection is respectfully traversed.

Claims 7 and 15 are dependent on claims 2 and 11, respectively, and are believed to be allowable for at least the reasons their respective independent claims are allowable. Accordingly, withdrawal of the rejection and allowance of claims 7 and 15 are respectfully requested.

As the applicant's remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, the applicant's silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references) is not a concession by the applicant that such assertions are accurate or such requirements have been met, and the applicant reserves the right to analyze and dispute such in the future.

CONCLUSION

In view of the foregoing amendments and remarks, the applicant respectfully requests withdrawal of the outstanding rejections and the timely allowance of this application.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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